

1
2
3
4 JASON LEVETTE WASHINGTON,
5 Plaintiff,
6 v.
7 M. KEEGAN, et al.,
8 Defendants.

9 Case No. [22-cv-03028-SI](#)
10
11

**ORDER DISMISSING FIRST
AMENDED COMPLAINT WITH
PREJUDICE**

Re: Dkt. No. 29

12
13 **BACKGROUND**

14 Plaintiff filed his original complaint *pro se* on May 23, 2022 against M. Keegan and K.
15 Abrams (hereafter the “Deputies”), who are deputies in the Alameda County Sheriff’s Department;
16 the Alameda County Superior Court; several Doe defendants, who are alleged to be employees of
17 the Sheriff’s Department; Qing C. Li, who appears to be plaintiff’s former landlord; and Yassa Goba
18 Washington, a Mr. Olsen, and a Mr. Hewison, none of whom are described in the Complaint. Dkt.
19 No. 1; see Dkt. No. 20 (identifying Keegan and Abrams as deputies); Dkt. No. 20-1 at 11 (identifying
20 Qing Cheng Li as landlord in unlawful eviction case).

21 The case was initially assigned to a magistrate judge who granted plaintiff’s motion to appear
22 *in forma pauperis*. Dkt. No. 6. The case was reassigned to the undersigned and, while deciding a
23 motion to dismiss filed by the Deputies, the Court made a determination that the complaint was
24 deficient pursuant to 28 U.S.C. § 1915. Dkt. No. 28. The Court dismissed the complaint with leave
25 to amend and ordered that the complaint must be amended by February 20, 2023, or it would be
26 dismissed with prejudice and without leave to amend. *Id.*

27 Plaintiff filed the amended complaint on February 21, 2023, one day after the deadline set
28 by the Court. Dkt. No. 29. Nonetheless, the Court will evaluate the amended complaint for

1 compliance with 28 U.S.C. § 1915.

2 The amended complaint adds defendants Cesar Granadeno; “B. Olsen,”¹ alleged to work for
3 the Oakland police department; Jason Chin, a judge of the Alameda Superior Court; “Doe Cal
4 Illegals,” which appears to be a reference to undocumented immigrants; and “Joshua A” and several
5 Doe defendants alleged to work at the Melrose Library in Oakland. Dkt. No. 29 at 9–10.

6 The amended complaint is largely incomprehensible. To the extent the complaint can be
7 understood, it appears to involve three separate incidents. *See* Dkt. No. 29 at 11–21. The first
8 incident complained of appears to be the same eviction described in the original complaint. *Id.* at
9 11–15. Plaintiff explicitly states that he takes issue with an unlawful detainer case brought against
10 him. *Id.* at 15. The next incident complained of appears to be an altercation with several
11 unidentified undocumented immigrants in which plaintiff admits he punched one of them in the face
12 “about five times.” *Id.* at 15–17. Plaintiff alleges he was then arrested, deemed not competent to
13 represent himself, and assigned a public defender by the judge presiding in his criminal case in state
14 court. *Id.* at 18–19. The last incident described in the complaint appears to consist of a library
15 employee telling plaintiff he was banned from using the library. *Id.* at 20–21.

16 On March 7, 2023, the Deputies moved to dismiss the amended complaint. Dkt. No. 30.
17

18 **LEGAL STANDARD**

19 Under 28 U.S.C. § 1915, a district court shall dismiss a case brought in forma pauperis “at
20 any time if the court determines that . . . the action . . . (i) is frivolous or malicious; (ii) fails to state
21 a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is
22 immune from such relief.” A complaint fails to state a claim upon which relief can be granted where
23 it does not contain “sufficient factual matter, accepted as true, to ‘state a claim to relief that is
24 plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v.*
25 *Twombly*, 550 U.S. 544, 570 (2007)).

26 Under Federal Rule of Civil Procedure 15(a)(2), leave to amend should be freely given
27

28 ¹ Presumably this is the same “Mr. Olsen” who is named in the original complaint. *See* Dkt. No. 1.

1 “when justice so requires.” Further, “a pro se litigant bringing a civil rights suit must have an
2 opportunity to amend the complaint to overcome deficiencies unless it is clear that they cannot be
3 overcome by amendment.” *Eldridge v. Block*, 832 F.2d 1132, 1135–36 (9th Cir. 1987). However,
4 a district court may exercise its discretion to deny leave to amend “due to undue delay, bad faith or
5 dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments
6 previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment,
7 [and] futility of amendment.” *Zucco Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 1007 (9th Cir.
8 2009), *as amended* (Feb. 10, 2009) (internal quotation marks omitted) (quoting *Leadsinger, Inc. v.*
9 *BMG Music Publ’g*, 512 F.3d 522, 532 (9th Cir.2008)).

DISCUSSION

12 Plaintiff brings 45 claims, none of which have merit. Many of the deficiencies in plaintiff’s
13 amended complaint are the same as those identified in the order dismissing his original complaint.
14 *See Dkt. No. 28.*

15 Claims one and two are for “Aggravated Kidnapping Tort” against defendants Keegan and
16 Abrams. Dkt. No. 29 at 21. These claims fail for the same reasons described in the order dismissing
17 the original complaint; plaintiff has failed to cure these deficiencies. *See Dkt. No. 28 at 6.* Claims
18 thirty and thirty-one are for “Aggravated Kidnapping Tort” against defendants Hewison and Olsen
19 for arresting plaintiff following an incident wherein he admits he punched another person five times
20 in the face. Dkt. No. 29 at 17–18, 24. As explained in the order dismissing the original complaint,
21 the Court construes these as claims for false arrest. *See Dkt. No. 28 at 6.* The facts alleged are not
22 sufficient to support an action for false arrest or false imprisonment. To prevail on a claim for false
23 arrest and imprisonment, a plaintiff must “demonstrate that there was no probable cause to arrest
24 him.” 159 F.3d 374, 380 (9th Cir. 1998). Plaintiff has not pleaded any facts showing that the officers
25 lacked probable cause to arrest him in light of his admission that he punched another person five
26 times. *See Dkt. No. 29 at 17–18.*

27 Claims three, four, five, six, seven, eleven, thirteen, fifteen, sixteen, seventeen, eighteen,
28 twenty-two, twenty-three, thirty-two, thirty-three, thirty-four, thirty-five, and forty are brought

1 under 18 U.S.C. §§ 241 and 242. Dkt. No. 29 at 21–25. As explained in the prior order, these are
2 criminal statutes that “provide no basis for civil liability.” Dkt. No. 28 at 5 (quoting *Aldabe v.*
3 *Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980)).

4 Claims seven, eight, fourteen, nineteen, twenty-four, twenty-five, thirty-six, thirty-seven,
5 forty-one, forty-three, forty-four, and forty-five are all brought under 42 U.S.C. § 1983. Dkt. No.
6 29 at 21–26. None of these claims “identify the specific constitutional right allegedly infringed.”
7 *Albright v. Oliver*, 510 U.S. 266, 271 (1994). As explained in the court’s prior order, 42 U.S.C.
8 § 1983 “is not itself a source of substantive rights,” but rather provides “a method for vindicating
9 federal rights elsewhere conferred.” *Albright*, 510 U.S. at 271. Because plaintiff has not identified
10 the rights allegedly infringed, his claims under section 1983 fail.

11 Claims nine, ten, twenty, twenty-one, thirty-eight, thirty-nine, and forty-two are brought
12 under 42 U.S.C. § 1981, which provides a cause of action for intentional discrimination. Dkt. No.
13 29 at 22–25; *see Gen. Bldg. Contractors Ass’n, Inc. v. Pennsylvania*, 458 U.S. 375, 391, 102 S. Ct.
14 3141, 3150, 73 L. Ed. 2d 835 (1982) (concluding that § 1981 “can only be violated by purposeful
15 discrimination”). But plaintiff alleges no such discrimination. To support claims nine and ten,
16 plaintiff alleges that he was falsely arrested but does not make any allegations as to discrimination.
17 Dkt. No. 29 at 12–13, 22. To support claims twenty and twenty-one, plaintiff alleges that his youth
18 ministry was disrupted but again makes no allegations as to discrimination. *Id.* at 14, 23. To support
19 claims thirty-eight and thirty-nine, plaintiff makes the conclusory allegation that Defendants
20 Hewison and Olsen “prejudicially responded” to plaintiff’s 911 call but alleges no facts to support
21 this conclusion nor any basis for the alleged prejudice. *Id.* at 18, 25. To support claim forty-two,
22 plaintiff alleges that Judge Chin ruled him incompetent to represent himself but does not allege any
23 discrimination. *Id.* at 19–20, 25. Because plaintiff has failed to allege any facts supporting his
24 claims for discrimination, these claims fail.

25 Claims twelve, twenty-six, twenty-seven, and twenty-eight are brought under 42 U.S.C.
26 § 1982. *Id.* at 22–24. Section 1982 “prohibit[s] all racial discrimination, private and public, in the
27 sale and rental of property.” *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 437, 88 S. Ct. 2186, 2202,
28 20 L. Ed. 2d 1189 (1968). Once again, however, plaintiff alleges no facts supporting claims of

1 discrimination. To support claim twelve, plaintiff alleges certain defendants unlawfully physically
2 restrained him while his landlord changed the locks. Dkt. No. 29 at 13, 22. Nothing in the alleged
3 facts suggests discrimination. The paragraph supporting claims twenty-six and twenty-seven is
4 difficult to decipher but appears to allege that police officers lied to plaintiff concerning the eviction
5 case against him and assisted his landlord in unlawfully evicting him. *Id.* at 14–15, 24. Again no
6 discrimination is alleged. The paragraph supporting claim twenty-eight challenges a judge’s
7 decision in the eviction case, but again alleges no discrimination. *Id.* at 15, 24. Plaintiff has
8 therefore failed to state a claim under 42 U.S.C. § 1982.

9 Claim twenty-nine does not identify any cause of action and is therefore dismissed.

10 Plaintiff’s amended complaint does not contain “sufficient factual matter, accepted as true,
11 to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
12 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The complaint is therefore
13 dismissed.

14 Plaintiff has already been given leave to amend his complaint and has done so without
15 addressing the deficiencies raised in the original complaint. *See* Dkt. No. 28. Moreover, it is clear
16 that further leave to amend would be futile. Plaintiff’s amended complaint, even more clearly than
17 the original complaint, is an attempt to seek review of state court judgments. *See* Dkt. No. 29 at 9–
18 10 (naming Judge Chin as defendant), 14–15 (complaining of judge’s actions in unlawful detainer
19 case), 19 (complaining of judge’s decision in criminal case). As the Court explained in its prior
20 order dismissing the original complaint, the *Rooker-Feldman* doctrine prohibits federal courts from
21 reviewing state court judgments. *Reusser v. Wachovia Bank, N.A.*, 525 F.3d 855, 858 (9th Cir.
22 2008). Because further amendment would be futile, leave to amend is denied. *See Zucco Partners,*
23 *LLC v. Digimarc Corp.*, 552 F.3d 981, 1007 (9th Cir. 2009), as amended (Feb. 10, 2009) (noting
24 leave to amend is appropriate where amendment would be futile).

25 Because the complaint is dismissed with prejudice as to all defendants, the Deputies’ motion
26 to dismiss is moot.

27
28 ///

CONCLUSION

Plaintiff's first amended complaint is **DISMISSED WITH PREJUDICE** and **WITHOUT LEAVE TO AMEND.**

IT IS SO ORDERED.

Dated: March 9, 2023

Susan Blston

SUSAN ILLSTON
United States District Judge

United States District Court
Northern District of California